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MONICA WARD

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MONICA WARD,)	Case No.: '10CV2494 JLS POR
)	
Plaintiff,)	COMPLAINT AND DEMAND FOR
)	JURY TRIAL
v.)	
)	(Unlawful Debt Collection Practices)
HUNT & HENRIQUES,)	
)	
Defendant.)	

VERIFIED COMPLAINT

Plaintiff, MONICA WARD (Plaintiff), through her attorneys, KROHN & MOSS, LTD.,
alleges the following against Defendant, HUNT & HENRIQUES (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, *Cal. Civ. Code §1788 et seq.* (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court

1 without regard to the amount in controversy,” and 28 *U.S.C. 1367* grants this court
2 supplemental jurisdiction over the state claims contained within.

3 4. Defendant conducts business in the state of California, and therefore, personal
4 jurisdiction is established.

5 5. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

6 **PARTIES**

7 6. Plaintiff is a natural person residing in Carlsbad, San Diego County, California.

8 7. Plaintiff is a consumer as that term is defined by 15 *U.S.C. 1692a(3)*, and according to
9 Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 *U.S.C. 1692a(5)*
10 and *Cal. Civ. Code § 1788.2(h)*.

11 8. Defendant is a debt collector as that term is defined by 15 *U.S.C. 1692a(6)* and *Cal. Civ.*
12 *Code §1788.2(c)*, and sought to collect a consumer debt from Plaintiff.

13 9. Defendant is a collection agency law firm with a business office in San Jose, California.

14 10. Defendant acted through its agents, employees, officers, members, directors, heirs,
15 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
16 insurers.

17 **FACTUAL ALLEGATIONS**

18 11. Defendant is attempting to collect a debt from Plaintiff on behalf of the original creditor,
19 Citibank, with an account number ending in 0761.

20 12. Plaintiff’s alleged debt owed to Citibank arises from transactions for personal, family,
21 and household purposes.

22 13. Within the last year, Defendant communicated with Plaintiff regarding the underlying
23 debt by leaving Plaintiff a message (Defendant’s transcribed message is attached as
24 Exhibit A).

25 14. Within the last year, Defendant left Plaintiff a message that failed to state the

1 communication was from a debt collector (Defendant's transcribed message is attached
2 as Exhibit A).

3 **COUNT I**
4 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

5 15. Defendant violated the FDCPA based on the following:

- 6 a. Defendant violated §1692e of the FDCPA by using false, deceptive, and
7 misleading representations in connection with the collection of any debt.
8 b. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an
9 attempt to collect a debt.
10 c. Defendant violated §1692e(11) of the FDCPA by failing to disclose in
11 subsequent communications that the communication was from a debt collector.

12 WHEREFORE, Plaintiff, MONICA WARD, respectfully requests judgment be entered
13 against Defendant, HUNT & HENRIQUES, for the following:

- 14 16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15
15 *U.S.C. 1692k*,
16 17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
17 *15 U.S.C. 1692k*
18 18. Any other relief that this Honorable Court deems appropriate.

19 **COUNT II**
20 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION**
PRACTICES ACT

21 19. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as
22 the allegations in Count II of Plaintiff's Complaint.

23 20. Defendant violated the RFDCPA based on the following:

- 24 a. Defendant violated the §1788.17 of the RFDCPA by continuously failing to
25 comply with the statutory regulations contained within the FDCPA, 15 U.S.C. §
1692 et seq.

1 WHEREFORE, Plaintiff, MONICA WARD, respectfully requests judgment be entered
2 against Defendant, HUNT & HENRIQUES, for the following:

3 21. Statutory damages of \$1000.00 pursuant to the Rosenthal Fair Debt Collection Practices

4 Act, *Cal. Civ. Code §1788.30(b)*,

5 22. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection
6 Practices Act, *Cal. Civ Code § 1788.30(c)*, and

7 23. Any other relief that this Honorable Court deems appropriate.

8 **DEMAND FOR JURY TRIAL**

9 PLEASE TAKE NOTICE that Plaintiff, MONICA WARD, demands a jury trial in this
10 case.

11 RESPECTFULLY SUBMITTED,

12 DATED: December 3, 2010

KROHN & MOSS, LTD.

13
14 By: /s/: Michael S. Agruss

15 Michael S. Agruss
16 Attorney for Plaintiff
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VERIFICATION OF COMPLAINT AND CERTIFICATION

LOWNDES COUNTY)
STATE OF GEORGIA)

Plaintiff, VIRGINIA DALES, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, VIRGINIA DALES, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

12-10-10

Date

Virginia Dales

VIRGINIA DALES

EXHIBIT A

Monica Ward v. Hunt & Henriques

Hi Monica, this is Yolanda calling from the Law Offices of Hunt & Henriques. I am calling you in regards to a payment that was supposed to be sent in for a hundred dollars. We have not received it. Please give me a call. My number is 925-405-8035. Once again that is 925-405-8035. I do need to hear from you within the next 24 hours. Thank you.